

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

EMPLOYERS AND OPERATING ENGINEERS	)	
LOCAL 520 PENSION FUND, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No.: 07-CV-312-JPG
	)	
OSTERHAGE CONTRACTING	)	
INCORPORATED,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter comes before the Court on the Court's June 12, 2008, order to show cause (Doc. 14). This is an action to collect delinquent fringe benefit contributions pursuant to Section 301 of the Labor Management Relations Act of 1947, as amended, 29 U.S.C. §185, and pursuant to Section 502 of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §1132. Defendant Osterhage Contracting Incorporated was served with the summons and complaint on May 18, 2007, and has not filed an answer or otherwise appeared in this matter. The Clerk of the Court has entered a default. On August 31, 2007, the Court ordered the defendant to provide plaintiffs within thirty (30) days all of the books, ledgers, payroll records and other documents reflecting or pertaining to all hours worked by and wages paid to its employees from January 1, 2005 to date so that the plaintiffs could conduct an accounting to establish the amounts owed to them. The Court has heard nothing from any party since that order.

On June 12, 2008, the Court ordered the plaintiff to show cause on or before June 27, 2008, why this case should not be dismissed for lack of prosecution pursuant to Federal Rule of Civil Procedure 41(b) and the Court's inherent authority to manage its docket. *See In re Bluestein & Co.*, 68 F.3d 1022, 1025 (7th Cir. 1995). It further warned the plaintiff that failure to respond in a timely manner to this order could result in dismissal of this action and noted that the filing of a proper

motion for default judgment requesting a sum certain, with proper evidentiary support, would be a satisfactory response to this order to show cause.

The plaintiff has not responded to the order to show cause. Accordingly, as it warned it would, the Court **DISMISSES** this case **with prejudice** and **DIRECTS** the Clerk of Court to enter judgment accordingly.

**SO ORDERED:**

s/ J. Phil Gilbert

**J. PHIL GILBERT**

**UNITED STATES DISTRICT JUDGE**

**DATE: July 1, 2008**